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August 26, 2011

**BY ELECTRONIC FILING**

The Honorable Gregory M. Sleet  
United States District Court  
For the District of Delaware  
J. Caleb Boggs Federal Building  
844 North King Street  
Wilmington, DE 19801

***Re: In re: Armodafinil Patent Litigation, MDL No. 10-md-2200-GMS***

Dear Chief Judge Sleet:

In anticipation of the discovery teleconference scheduled for 11:30 a.m. on September 1, 2011, in the above-captioned matter, the parties jointly submit the following agenda items. Defendants respectfully ask this Court to alternate its consideration of the issues between the parties.

**Plaintiffs' Issues:**

- As to Defendants Generally
  - Scheduling fact depositions after the August 19, 2011, fact discovery deadline.
- As to Mylan
  - Failure to produce information related to other polymorphs of Armodafinil made, used, or considered by or for Mylan in response to Cephalon's discovery requests.
  - Failure to produce properly noticed citizens of India in the United States for deposition.
- As to Apotex
  - Failure to produce a copy of Apotex's draft response to the FDA's February 15, 2011, deficiency letter.

**Defendants' Issues:**

- Brief extension of discovery deadlines.

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- Failure to produce complete documents without redactions related to the drug and patent in suit.<sup>1</sup>
- Improper instructions not to answer questions during depositions.<sup>1</sup>
- Production of 30(b)(6) witness to testify regarding facts Cephalon relies on to prove secondary indicia of non-obviousness.
- Re-open deposition of French witness, Dr. Coquerel, due to expected production of relevant documents on August 29, 2011 pursuant to Article II Hearing in Paris.<sup>1</sup>

Respectfully submitted,

*/s/ Mary W. Bourke*

Mary W. Bourke

cc: Clerk of the Court (Via Hand Delivery)  
Defendants' counsel (Via Electronic Mail)

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<sup>1</sup> Plaintiffs do not believe that the parties have had sufficient time to adequately meet and confer, consider, and attempt to work out a suitable resolution of these issues, and therefore do not view them as ripe for the Court's consideration.